HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.1109 OF 2004

Raman Waman Patil. ..Petitioner.

Versus.

State of Maharashtra. ..Respondent.

Shri N.B.Pawaskar, advocate appointed for the petitioner.

Shri V.B.Konde-Deshmukh, APP for the State-Respondent.

CORAM: A.M.KHANWILKAR,J

DATE: MARCH 30, 2005.

P.C.

1. Heard the learned counsel for the parties.

2. Rule, made returnable forthwith by consent.

3. Mr.Konde-Deshmukh waives notice for respondent.

4. As short question is involved, petition is taken up for final hearing by consent.

5. This petition takes exception to the order passed by the Deputy Inspector General of Prisons, Central Zone, Aurangabad dated 23rd February, 2004 rejecting

petitioner's request for releasing on furlough leave. The only reason noted in the impugned order is that the petitioner while he was released on furlough leave on earlier occassion, assaulted witnesses for which offence has been registered against the petitioner. This is the main basis on which the request for furlough leave made by the petitioner came to be rejected.

6. After considering the rival submissions and going through the records, the sole reason on which the Competent Authority rejected the petitioner's request for furlough leave, to my mind, is unacceptable. This is so because, it is common ground that although the said offence was registered against the petitioner in relation to the incident which took place when the petitioner was enjoying furlough leave at the relevant time, which was the second time on which he was released on furlough leave, however, even thereafter, the petitioner was released on furlough leave for the third time and the petitioner has availed that leave and reported within time. In other words, the reason which is given by the Competent Authorities was a non-issue as the Competent Authority had released the petitioner subsequent to the said incident and the petitioner availed the furlough leave for the third time thereafter.

7. In view of this, order in question cannot be sustained. The same is set aside with direction to the Competent Authority to release the petitioner on furlough leave forthwith as per the rules. It will be open to the Competent Authority to impose such conditions as may be required to ensure that the petitioner does not indulge in any illlegal or objectionable activities while enjoying this furlough leave. Petition disposed of on the above terms.

8. Copy of this order be forwarded to the petitioner as the present petition is filed through jail.

9. The Court records word of appreciation for Shri N.B.Pawaskar, for having rendered assistance as amicus curiae.